

**BOARD OF COUNTY COMMISSIONERS  
SARPY COUNTY, NEBRASKA**

**RESOLUTION DECLINING VACATION OF 72<sup>ND</sup> STREET RIGHT-OF-WAY  
ADJACENT TO LOT 6, WEST CORNHUSKER PLAZA**

WHEREAS, pursuant to Neb. Rev. Stat. §39-1722 (Reissue 2008), the County Engineer has been directed to study the use being made of the tract of land described as a portion of existing 72<sup>nd</sup> Street right-of-way adjacent to Lot 6, West Cornhusker Plaza, within Sarpy County, NE and report said study to this Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. §39-1724 (Reissue 2008), this Board has received said report from the Sarpy County Engineer within the thirty (30) days of the directive, and said report contains the study made and the County Engineer's recommendation as to the vacation thereof as required by Neb. Rev. Stat. §39-1722 (Reissue 2008), and recommends said vacation; and,

WHEREAS, on the 10<sup>th</sup> day of January, 2012, a Public Hearing on the vacation was held as required by Neb. Rev. Stat. §39-1724 (Reissue 2008), after publication and the service of notice on adjacent landowners, all as required by Neb. Rev. Stat. §39-1724 (Reissue 2008); and,

WHEREAS, pursuant to Rev. Stat. §39-1725 (Reissue 2008), this Board has received the recommendation of the Papillion City Engineer to deny the vacation of said right-of-way as it appears that the property in issue is within the Papillion city limits.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that pursuant to the requirements of Neb. Rev. Stat. §39-1722 and §39-1725 (Reissue 2008) based upon a legal review by the County Attorney and the recommendation of the Papillion City Engineer, the request to vacation said 72<sup>nd</sup> Street right-of-way adjacent to Lot 6, West Cornhusker Plaza, within Sarpy County, NE is hereby declined.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 24<sup>th</sup> day of January, 2012.



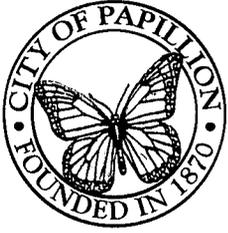
Sarpy County Board Chairman

Attest:

SEAL



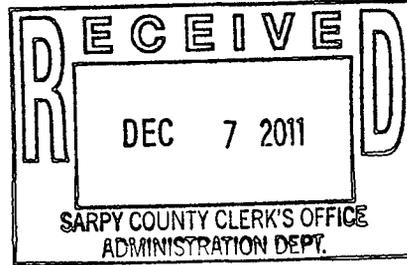

County Clerk



CITY OF PAPIILLION  
David P. Black, Mayor  
Jeffrey L. Thompson, P.E., CPECS, CFM  
Manager of Engineering Services  
122 East Third Street  
Papillion, Nebraska 68046  
Phone 402-898-9092  
Fax 402-339-0670  
E-Mail: jefft@papillion.org

December 6, 2011

Debra Houghtaling  
Sarpy County Clerk  
1210 Golden Gate Drive  
Papillion, NE 68046-2895



RE: 72<sup>nd</sup> Street Vacation Request

Dear Ms. Houghtaling;

We reviewed the Sarpy County Board of Commissioner's request to vacate a portion of 72<sup>nd</sup> Street right-of-way described in your letter dated November 29, 2011. The official City of Papillion Zoning Map shows that the right-of-way is located within the Papillion City Limits due to the annexation of Papillion Business & Technology Park. The Papillion Business and Technology Park was annexed by ORD. 1437 approved by the Papillion City Council on April 20, 2004. Per Neb. Rev. Stat. §18-1716.01, "Any city or village annexing property contiguous to or abutting upon any part of a county road shall be deemed to have annexed, without further action, all of the contiguous or abutting road at the time of such annexation, except that this section shall not apply to county roads separating counties." Copies of the annexation ordinance and our official Zoning Map are enclosed.

We formally request that the Sarpy County Board of Commissioners take no further action to vacate the portion of 72<sup>nd</sup> Street right-of-way described in your letter since it is within Papillion City Limits. We are willing to present the vacation request to the Papillion City Council. Please have the applicant contact the Papillion Planning Department at 402-597-2077 to schedule a meeting to discuss the request.

Sincerely,

Jeffrey L. Thompson, PE, CPESC, CFM  
City Engineer

Cc: Denny Wilson, Sarpy County Engineer  
Mark Wayne, Sarpy County Administrator

Record # 2004-16031

# ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1437

AN ORDINANCE TO ANNEX CERTAIN REAL ESTATE IN THE CITY OF PAPIILLION, NEBRASKA; FOR THE AREAS GENERALLY DESCRIBED AS 1) 72<sup>ND</sup> STREET NEAR HICKORY HILL PLAZA; 2) TRIANGLE OF LAND - NORTHWEST OF 72<sup>ND</sup> & CEDARDALE; 3) 72<sup>ND</sup> STREET, GENERALLY CEDARDALE ROAD TO CREIGHTON ROAD; 4) REMAINING AREA IN THE PAPIILLION BUSINESS & TECHNOLOGY PARK; 5) TRINITY LUTHERAN CHURCH PARCEL AND SURROUNDING PARCELS; 6) FIRST BAPTIST CHURCH AREA; 7) OVERLAND HILLS BAPTIST CHURCH AREA; 8) HIGHWAY 370, GENERALLY WASHINGTON TO 108<sup>TH</sup> STREET AND THE PAPIILLION LA VISTA SOUTH HIGH SCHOOL SITE; AND 9) HIGHWAY 370, GENERALLY WASHINGTON TO BEECHWOOD AVENUE AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

BE IT ORDAINED by the Mayor and City Council of the City of Papillion, Nebraska as follows:

**Section 1:** That the real estate legally described as follows to wit:

**AREA 1 (72<sup>nd</sup> Street Near Hickory Hill Plaza).**

Beginning at the southeast corner of Lot 2, Hickory Hills Plaza Replat, a subdivision as surveyed, platted, and recorded in Sarpy County, Nebraska; thence easterly across 72<sup>nd</sup> Street on the extended southerly lot line of said Lot 2 to a point on the easterly right-of-way of 72<sup>nd</sup> Street; thence northerly along the easterly right-of-way line of 72<sup>nd</sup> Street to a point on the southerly right-of-way line of Giles Road and existing City limits of Papillion; thence westerly across 72<sup>nd</sup> Street along the existing City limits of Papillion and the southerly right-of-way line of Giles Road to the westerly right-of-way line of 72<sup>nd</sup> Street; thence southerly along the westerly right-of-way line of 72<sup>nd</sup> Street to the point of beginning.

**AREA 2 (Triangle of Land - Northwest of 72<sup>nd</sup> & Cedardale).**

Beginning at a point, said point being the Southeastly corner of Lot 191, Park Hills III, a subdivision surveyed, platted and recorded in Sarpy County, Nebraska and being on the existing City limits of Papillion and the northerly right-of-way line of Cedardale Road; thence northerly along the existing City limits of Papillion to the northeast corner of Section 35, T14N, R12 E of the 6<sup>th</sup> P.M., Sarpy County; thence easterly along the north line of Section 36, T14N, R12E of the 6<sup>th</sup> P.M., Sarpy County to the westerly right-of-way line of 72<sup>nd</sup> Street, thence southerly along the westerly right-of-way line of 72<sup>nd</sup> Street to the northerly right-of-way line of Cedardale Road; thence westerly along the northerly right-of-way of Cedardale Road and the existing City limits of Papillion to the point of beginning.

**AREA 3 (72<sup>nd</sup> Street, generally Cedardale Road to Creighton Road).**

Beginning at the northeasterly corner of Lot 4, Summerfield 2<sup>nd</sup> Addition, a subdivision surveyed, platted, and recorded in Sarpy County, Nebraska, thence easterly on the northerly lot line of said Lot 4 extended across 72<sup>nd</sup> Street to a point, said point being on the existing City limits of Papillion and on the easterly right-of-way line of 72<sup>nd</sup> Street; thence southerly along the easterly right-of-way line of 72<sup>nd</sup> Street across Cornhusker Road, across the abandoned Union Pacific railroad right-of-way, across the West Branch Papillion Creek to the northerly right-of-way line of Cedardale Road, thence westerly across 72<sup>nd</sup> Street to a point on the westerly right-of-way line of 72<sup>nd</sup> Street, said point also being the northerly right-of-way line of Cedardale Road, thence northerly along the westerly right-of-way line of 72<sup>nd</sup> Street to the southeasterly corner of Tax Lot 24A1A1B, Sec. 26, T14N,

R12E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska; thence westerly, northerly, and easterly along the southerly, westerly and northerly boundaries of said Tax Lot 24A1A1B to the northeasterly corner of said Tax Lot 24A1A1B and the westerly right-of-way line of 72<sup>nd</sup> street; thence northerly along the westerly right-of-way

# ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

line of 72<sup>nd</sup> Street, across the West Branch Papillion Creek, the abandoned Union Pacific railroad right-of-way, First Street, American Parkway, and Cornhusker Road to the point of beginning.

## **AREA 4 (Papillion Business & Technology Park).**

Beginning at the northwest corner of Schmid Acres, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; said point also being on the existing City limits of Papillion; thence easterly along the southerly right-of-way line of Cornhusker Road to the westerly right-of-way line of 72<sup>nd</sup> Street, thence southerly along the westerly right-of-way line of 72<sup>nd</sup> Street across American Parkway and First Street to the southerly right-of-way line of First Street and the existing City limits, thence westerly along the southerly right-of-way line of First Street to a point on the extended easterly lot line of Lot 1, Papillion Business and Technology Park, a subdivision surveyed, platted and recorded in Sarpy County, Nebraska, thence northerly along the existing City limits across First Street to the southeast corner of said Lot 1, thence along the existing City limits northerly, westerly and southerly along the easterly, northerly and westerly lot lines of said Lot 1 to the northerly right-of-way line of First Street; thence westerly and northerly along the existing City limits to the point of beginning, excluding the area previously annexed by Ordinance 1293 commonly described as Lot 2 and Outlot A, Papillion Business and Technology Park, a subdivision surveyed, platted and recorded in Sarpy County, Nebraska

## **AREA 5 (Trinity Lutheran Church and surrounding area).**

Beginning at the southwest corner of Tax Lot 12A in Section 27, T14N, R12E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska; said point also being on the existing City limits of Papillion and on the northerly right-of-way line of Lincoln Street; thence easterly along the existing City limits of Papillion, and the northerly right-of-way line of Lincoln Street and along the southerly lines of Tax Lots 12A and 12B, in said Section 27 and Lot 1, Trinity Addition, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska and Tax Lot 8, in said Section 27 to the southeast corner of said Tax Lot 8; thence northerly along the existing City limits of Papillion and the easterly line of said Tax Lot 8 to the northeast corner of said Tax Lot 8; thence westerly and northerly along the existing City limits of Papillion and along the northerly line of said Tax Lot 8 and along the easterly line of said Lot 1 to the northeast corner of said Lot 1, thence westerly along the existing City limits of Papillion and the northerly line of said Lot 1 to the northwest corner of said Lot 1; thence southerly along the existing City limits of Papillion and the westerly line of said Lot 1 to the northeast corner of said Tax Lot 12B; thence westerly along the existing City limits of Papillion and the northerly lines of said Tax Lots 12B and 12A to the northwest corner of said Tax Lot 12A; thence southerly along the existing City limits of Papillion and the westerly line of said Tax Lot 12A to the point of beginning

## **AREA 6 (First Baptist Church).**

Beginning at the northwest corner Lot 1, First Baptist Church Addition, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; said point also being on the existing City limits of Papillion; thence southerly, along the existing City limits of Papillion to the southwesterly corner of Lot 3 of said First Baptist Church Addition; thence easterly, northerly and westerly along the existing City limits of Papillion to the to the point of beginning.

## **AREA 7 (Overland Hills Baptist Church).**

Beginning at the northwest corner of Tax Lot 12A in Section 34, T14N, R12E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, said point also being on the existing City limits of Papillion; thence southerly along the existing City limits of Papillion and the easterly right-of-way line of 90<sup>th</sup> Street to the southwest corner of said Tax Lot 12A; thence easterly along the southerly lines of said Tax Lot 12A and Tax Lot 12B in said Section 34 to the southeast corner of said Tax Lot 12B; thence

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No. 728—REDFIELD & COMPANY INC., OMAHA

northwesterly along the existing City limits of Papillion and the northeasterly lines of said Tax Lots 12B and 12A to the northeast corner of said Tax Lot 12A; thence westerly along the existing City limits of Papillion and the southerly right-of-way line of Gruenther Road to the point of beginning.

## **AREA 8 (Highway 370, Washington to 108<sup>th</sup> Street and PL South High School).**

Beginning at a point, said point being the westerly City limits at the intersection of northerly right-of-way line of State Highway 370 and the easterly right-of-way line of 90<sup>th</sup> Street; thence westerly across 90<sup>th</sup> Street to a point on the northerly right-of-way line of State Highway 370; thence continuing westerly along the northerly right-of-way of State Highway 370 to 96<sup>th</sup> Street; thence continuing westerly across 96<sup>th</sup> Street to a point on the northerly right-of-way line of State Highway 370; thence continuing westerly along the northerly right-of-way line of State Highway 370 to a point on the northerly right-of-way line of State Highway 370 at the west line of Section 28, T14N, R12E of the 6<sup>th</sup> PM, Sarpy County, Nebraska (said line being the centerline of 108<sup>th</sup> Street); thence southerly across State Highway 370 to a point on the southerly right-of-way line of State Highway 370, said point being on the west line of Section 33, T14N, R12E; thence southerly along the west line of Section 33, T14N, R12E to the southwest corner of the northwest 1/4 Section 33, T14N, R12E; thence easterly along the south line of the west 1/2 of the NW 1/4 Section 33, T14N, R12E to the southeast corner of the west 1/2 of the NW 1/4 Section 33, T14N, R12E; thence northerly along the east line of the west 1/2 of the NW 1/4, Section 33, T14N, R12E to the southerly right-of-way line of State Highway 370; thence easterly along the southerly right-of-way line of State Highway 370 to 96<sup>th</sup> Street; thence continuing easterly across 96<sup>th</sup> Street to a point on the southerly right-of-way line of State Highway 370; thence continuing easterly along the southerly right-of-way line of State Highway 370 to 90<sup>th</sup> Street; thence continuing easterly across 90<sup>th</sup> Street to a point on the southerly right-of-way of State Highway 370; thence continuing easterly along the southerly right-of-way line of State Highway 370 to Washington Street; thence continuing easterly across Washington Street to a point on the southerly right-of-way of Highway 370; thence continuing easterly to a point on the southerly right-of-way line of Highway 370 where the existing City limits cross Highway 370; thence northerly along the existing City limits across Highway 370 to a point on the northerly right-of-way line of Highway 370; thence westerly along the northerly right-of-way line of Highway 370 across to Washington Street; thence continuing westerly across Washington Street to a point on the northerly right-of-way line of Highway 370; thence continuing westerly on the northerly right-of-way line of Highway 370 to the point of beginning and excepting therefrom Tax Lot 7 in the west 1/2 of the NW 1/4, Section 33, T14N, R12E.

## **AREA 9 (Highway 370, generally Washington to Beechwood Avenue).**

Beginning at the southeast corner of Lot 11, Monarch Place, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; said point also being the existing City limits of Papillion and the northerly right-of-way line of Highway 370; thence southerly across Highway 370 on the extended easterly line of said Lot 11 to the southerly right-of-way line of Highway 370; thence westerly along the southerly right-of-way line of Highway 370 across 72<sup>nd</sup> Street, and across Huntington Parkway (aka Gold Coast Road) to a point on the southerly right-of-way of Highway 370 where the existing City limits of Papillion cross Highway 370; thence northerly along the existing City limits of Papillion to the northerly right-of-way line of Highway 370; thence easterly along the northerly ROW line of Highway 370 across Gold Coast Road and 72<sup>nd</sup> Street to the point of beginning.

**Section 2:** The City Council has received and considered the recommendation of the Papillion Planning Commission.

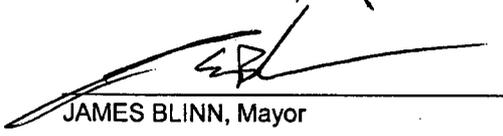
# ORDINANCE RECORD

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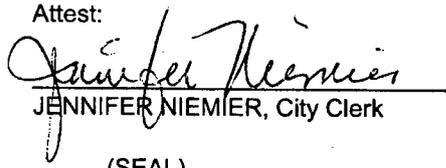
**Section 3: Effective Date.** This ordinance shall be in full force and effect fifteen (15) days after its passage. The city clerk is directed to effectuate the publishing of this Ordinance for at least one (1) week in a newspaper published within the City of Papillion, which publication must take place within fifteen (15) days of the passage of the ordinance by the city council.

PASSED AND APPROVED this 20th day of April, 2004.

CITY OF PAPIILLION,

  
JAMES BLINN, Mayor

Attest:

  
JENNIFER NIEMIER, City Clerk

(SEAL)

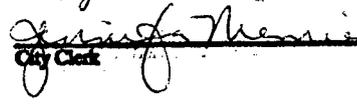
First Reading: 03/16/04  
Second Reading: 04/06/04  
Third Reading: 04/20/04

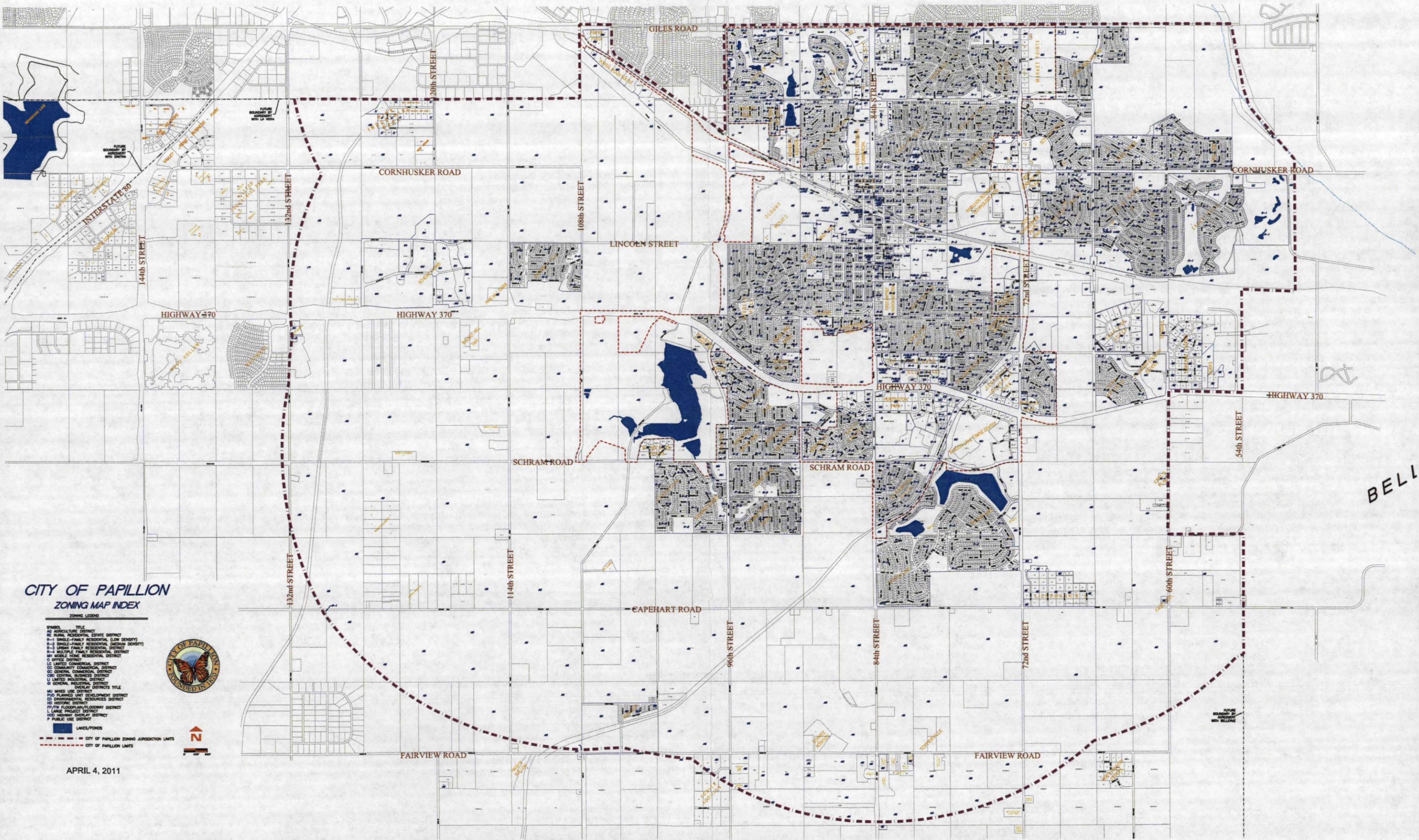


## CERTIFICATE

The undersigned City Clerk in and for the City of Papillion, Sarpy County, Nebraska, being first duly sworn upon oath states that the attached Ordinance was passed and approved and published in the

The Times  
newspaper on the 10th day of May 2004

  
City Clerk



**CITY OF PAPILLION**  
**ZONING MAP INDEX**

- ZONING LEGEND**
- SYMBOL TITLE
  - A2 AGRICULTURE DISTRICT
  - RE RURAL RESIDENTIAL, ESSENTIAL DISTRICT
  - R-1 SINGLE-FAMILY RESIDENTIAL (LOW DENSITY)
  - R-2 SINGLE-FAMILY RESIDENTIAL (MEDIUM DENSITY)
  - R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT
  - R-4 MULTIPLE FAMILY RESIDENTIAL DISTRICT
  - MH MOBILE HOME RESIDENTIAL DISTRICT
  - O OFFICE DISTRICT
  - LC LIMITED COMMERCIAL DISTRICT
  - CC COMMUNITY COMMERCIAL DISTRICT
  - SC GENERAL COMMERCIAL DISTRICT
  - CBU CENTRAL BUSINESS DISTRICT
  - LI LIMITED INDUSTRIAL DISTRICT
  - GI GENERAL INDUSTRIAL DISTRICT
  - OVERLAY DISTRICTS TITLE
  - MU MIXED USE DISTRICT
  - PUD PLANNED UNIT DEVELOPMENT DISTRICT
  - ED ENVIRONMENTAL RESOURCES DISTRICT
  - HD HISTORIC DISTRICT
  - FP FLOODPLAIN/FLOODWAY DISTRICT
  - L LARGE PROJECT DISTRICT
  - HCO HIGHWAY OVERLAY DISTRICT
  - P PUBLIC USE DISTRICT
  - LAKE/POND
  - CITY OF PAPILLION ZONING JURISDICTION LIMITS
  - CITY OF PAPILLION LIMITS



APRIL 4, 2011

BELL

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MEMORANDUM

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Subject: Vacation request Agenda Item 17  
Date: January 9, 2012  
From: John Reisz

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As you are aware there is a Petition filed by First Street LLC to vacate a portion of right-of-way (ROW) near West Cornhusker Plaza and the public hearing is set for January 10<sup>th</sup>. The City of Papillion was asked for input since the ROW is in their zoning jurisdiction. The City has responded and requested that the County take no further action as the ROW appears to be within Papillion City limits. For reasons stated below, I believe the City is correct.

Papillion has annexed the area to the west of 72<sup>nd</sup> Street from Cornhusker Road south to CedarDale. As such, Papillion is relying on Neb. Rev. Stat. §18-1716.01 which states

“Any city or village annexing property contiguous to or abutting upon any part of a county road shall be deemed to have annexed, without further action, all of the contiguous or abutting road at the time of such annexation . . .”

What this means is that the city is responsible for those portions of 72<sup>nd</sup> Street abutting existing city boundaries. Since Papillion has annexed the area to the West of 72<sup>nd</sup> Street then by operation of statute, they have also annexed the road to include existing right-of-way.

There had been some confusion due to the litigation on the annexation that had taken place over the years and the fact that the ROW does not appear in GIS as associated to 72<sup>nd</sup> Street. It appears to be consistent with an intersection ROW matching the American Parkway intersection across the street. However, I have reviewed the legal description in the original dedication and it seems clear that the ROW in question, although not consistent with present 72<sup>nd</sup> Street ROW footprint, is in fact part of the 72<sup>nd</sup> Street ROW and the City of Papillion is correct that any vacation process would need to be administered through them.

I would advise that the public hearing be held and a vote taken the following week to decline the vacation.

JR

**AFFIDAVIT OF PUBLICATION**

STATE OF NEBRASKA }  
 } SS.  
County of Sarpy }

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Kirk Hoffman deposes and says that he is the Business Manager of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, legal newspapers of general circulation in Sarpy County, Nebraska, and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on:

Wednesday, December 21, 2011 Bellevue Leader  
Gretna Breeze  
Papillion Times  
Springfield Monitor  
Thereafter, Wednesday, December 28, 2011 Bellevue Leader  
Gretna Breeze  
Papillion Times  
Springfield Monitor  
Thereafter, Wednesday, January 4, 2012 Bellevue Leader  
Gretna Breeze  
Papillion Times  
Springfield Monitor

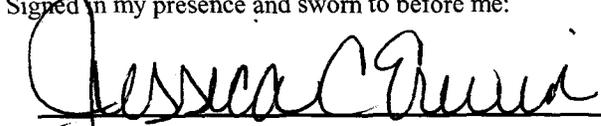
And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

  
\_\_\_\_\_  
Shon Barenklau OR Kirk Hoffman  
Publisher Business Manager

Notice of Public Hearing

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that pursuant to Neb. Rev. Stat. §39-1722 et seq. (Reissue 1998) a public hearing will be held on Tuesday, January 10, 2012 at 3:00 P.M., or as soon thereafter as it may be heard, in the Sarpy County Courthouse Board Room, 1210 Golden Gate Drive, Papillion, Nebraska 68046, to receive public comment regarding the vacation of part of 72nd Street right-of-way located in the NW ¼ of Section 25, T14N, R12E of the 6th P.M., Sarpy County, Nebraska, described as follows: The Northerly 105.43 feet of the Easterly 63.05 feet of 72nd Street right-of-way going west and north of Lot 6, West Cornhusker Plaza a subdivision in said Sarpy County, Nebraska, and Southerly of 71st Plaza right-of-way.  
Debra J. Houghtaling  
Sarpy County Clerk  
1453037: 12/21, 12/28, 1/4

Today's Date 01-04-2012  
Signed in my presence and sworn to before me:

  
\_\_\_\_\_  
Notary Public

Printer's Fee \$ 24.30  
Customer Number: 40941  
Order Number: 0001453037